

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

In the Official Action, the Examiner objects to claim 4 because the recitation of "sail" on line 7 thereof should be --said--. In response, claim 4 has been amended as suggested by the Examiner. Accordingly, it is respectfully requested that the objection to claim 4 be withdrawn.

In the Official Action, the Examiner rejects claims 1-5 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner argues that the recitation of "a tensile stress of the manipulating wire is always applied only to the clip located at the most distal end" is unclear. In response, claim 1 has been amended to recite "a tensile stress of the manipulating wire is applied only to the clip located at a most distal end of the introducing tube". Accordingly, it is respectfully requested that the rejection of claims 1-5 under 35 U.S.C. § 112, second paragraph, be withdrawn.

In the Official Action, the Examiner rejects claims 1-5 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,242,456 to Nash et al., (hereinafter "Nash").

In response, Applicants respectfully traverse the Examiner's rejection under 35 U.S.C. § 102(b) for at least the reasons set forth below. However, the claims, where necessary, have been amended to clarify their distinguishing features.

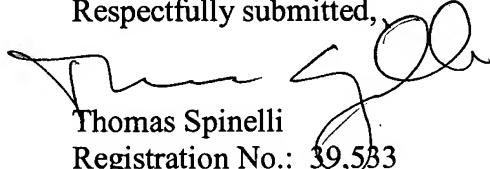
Turning now to the prior art, Nash discloses a plurality of clips connected by tethers 36, so that the degree of freedom of treatment in a body cavity can be increased. On the other hand, according to the present invention as recited in claim 1, clips are separately used for ligation. Furthermore, the tether disclosed in Nash is used to connect ligated clips,

and does not apply a tensile stress to the clip located at a most distal end. Thus, the apparatus disclosed in Nash is different from the present invention as recited in claim 1.

With regard to the rejection of claims 1-5 under 35 U.S.C. § 102(b), an apparatus for ligating living tissues having the features discussed above and as recited in independent claim 1, is nowhere disclosed in Nash. Since it has been decided that “anticipation requires the presence in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim,”¹ independent claim 1 is not anticipated by Nash. Accordingly, independent claim 1 patentably distinguishes over Nash and is allowable. Claims 2-5 being dependent upon claim 1 are thus at least allowable therewith. Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 1-5 under 35 U.S.C. § 102(b).

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant’s attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



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¹ Lindeman Maschinenfabrik GMBH v. American Hoist and Derrick Company, 730 F.2d 1452, 1458; 221 U.S.P.Q. 481, 485 (Fed. Cir., 1984).